

Before the
COPYRIGHT ROYALTY JUDGES
Washington, DC

In re

DISTRIBUTION OF SATELLITE
ROYALTY FUNDS

NO. 16-CRB-0010-SD (2014-17)

**NOTICE OF CONTROVERSY REGARDING CLAIMS IN
THE JOINT SPORTS CLAIMANTS CATEGORY**

The Joint Sports Claimants (“JSC”)¹ submit this Notice of Controversy Regarding Claims in the JSC Category (“Sports Category”) pursuant to the *Corrected Scheduling Order and Notice of Voluntary Negotiation Period* entered by the Copyright Royalty Judges (“Judges”) on April 6, 2021. JSC has joined in the contemporaneously filed Joint Notice of Partial Settlement, which notifies the Judges of the settlement in principle of all issues in the Allocation Phase of the above-captioned proceeding. JSC submits this additional notice to address controversies that are specific to claims asserted in the Sports Category.

1. MGC Claims. The Multigroup Claimants (“MGC”) seek a share of the 2015-17 royalties allocated to the Sports Category. MGC has not previously received any portion of Sports royalties, and in numerous prior proceedings has submitted claims to royalties in the Sports Category that the Judges ultimately found to be invalid. *See Ruling and Order Regarding Objections to Cable and Satellite Claims*, Nos. 14-CRB-0010-CD (2010-13) and 14-CRB-0011-SD (2010-13) (Oct. 23, 2017) *aff’d Multigroup Claimants v. Copyright Royalty Board*, 788 Fed. App’x 12 (D.C. Cir. 2019) (per curiam); *see also Order on Joint Sports Claimants’ Motion for*

¹ JSC is comprised of the Office of the Commissioner of Baseball, the National Basketball Association, the National Football League, the National Collegiate Athletic Association, the National Hockey League, and the Women’s National Basketball Association.

Summary Adjudication Dismissing Claims of Independent Producers Group, Nos. 2012-6 CRB CD 2004-2009, 2012-7 CRB SD 1999-2009 (Aug. 29, 2014); *Memorandum Opinion and Order Following Preliminary Hearing on Validity of Claims*, No. 2008-2 CRB CD 2000-2003 (Phase II) (Mar. 21, 2013), *aff'd Independent Producers Group v. Librarian of Congress*, 792 F.3d 132, 136-40 (D.C. Cir. 2015); *Order on Motion by Joint Sports Claimants for Section 801(c) Ruling or, in the Alternative, a Paper Proceeding in the Phase I Sports Category*, No. 2008-2 CRB CD 2000-2003 (Phase II) (May 17, 2013) (rejecting IPG's claims for shares of Sports royalties on behalf of U.S. Olympic Committee and United Negro College Fund, concluding that neither claim was properly made against the Sports category), *aff'd Independent Producers Group*, 792 F.3d at 140. With respect to MGC, the issues to be resolved therefore are:

- Does MGC properly represent those claimants that it purports to represent with claims to 2015-17 royalties allocated to the Sports Category?
- Do those claimants have a valid claim (i) to 2015-17 royalties (ii) within the Sports Category?
- To the extent that such valid claims exist, what is the relative value of those claims vis-à-vis the claims of JSC members and any other claimants who have a valid claim (i) to 2015-17 royalties (ii) within the Sports Category?

2. MLS Claims. Major League Soccer, LLC ("MLS") seeks a share of the 2014-17 royalties allocated to the Sports Category. With respect to MLS, the issue to be resolved is:

- What is the relative value of MLS's claims vis-à-vis the claims of JSC members and any other claimants who have a valid claim (i) to 2014-17 royalties (ii) within the Sports Category?

In prior proceedings, JSC and MLS have negotiated agreements among themselves but have not yet been able to do so in this proceeding. JSC and MLS continue to negotiate in good faith in order to reach a settlement without the need for Distribution Phase proceedings.²

3. Proposal for Further Proceedings. Whether and, if so, to what extent MGC properly represents claimants with valid claims to 2015-17 Sports royalties are threshold issues that must be resolved before the parties can address the relative value of any such claims. JSC respectfully requests that the Judges bifurcate these issues from the issue of the relative value of any such claims. In view of MGC's previous inability to establish any valid claim to Sports royalties, JSC also requests that the Judges require MGC promptly to (i) identify any and all claimants that MGC claims to represent with claims for 2015-17 Sports royalties; and (ii) produce all documents that relate or refer to MGC's position that it is entitled to seek Sports royalties on behalf of those claimants (including both all documents that support MGC's position and all documents that are contrary to or fail to support MGC's position). Unless and until such discovery is provided, JSC cannot determine what further proceedings may be necessary concerning MGC's claims for 2015-17 Sports royalties, as the scope of any further proceedings will depend on the discovery provided by MGC in support of its representation of claimants to Sports royalties and the issues raised by that discovery.

² There is no controversy among the JSC members on how to allocate the 2014-17 royalties allocated to the Sports Category. Nor is JSC aware of any controversies over those royalties other than the controversies described above.

Respectfully submitted,

JOINT SPORTS CLAIMANTS

/s/ Michael Kientzle

Daniel A. Cantor (DC Bar No. 457115)
Michael Kientzle (DC Bar No. 1008361)
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Avenue, N.W.
Washington, DC 20001
Phone: (202) 942-5000
Fax: (202) 942-5999
Daniel.Cantor@arnoldporter.com
Michael.Kientzle@arnoldporter.com

Dated: July 19, 2021

Proof of Delivery

I hereby certify that on Monday, July 19, 2021, I provided a true and correct copy of the Notice of Controversy Regarding Claims in the Joint Sports Claimants Category to the following:

Devotional Claimants, represented by Matthew J MacLean, served via ESERVICE at matthew.maclean@pillsburylaw.com

American Society of Composers, Authors and Publishers (ASCAP), represented by Sam Mosenkis, served via ESERVICE at smosenkis@ascap.com

Broadcaster Claimants Group, represented by John Stewart, served via ESERVICE at jstewart@crowell.com

Program Suppliers, represented by Lucy H Plovnick, served via ESERVICE at lhp@msk.com

Broadcast Music, Inc., represented by Jennifer T. Criss, served via ESERVICE at jennifer.criss@dbr.com

SESAC Performing Rights, LLC, represented by John C. Beiter, served via ESERVICE at john@beiterlaw.com

Global Music Rights, LLC, represented by Scott A Zebrak, served via ESERVICE at scott@oandzlaw.com

Multigroup Claimants, represented by Brian D Boydston, served via ESERVICE at brianb@ix.netcom.com

Major League Soccer, L.L.C., represented by Edward S. Hammerman, served via ESERVICE at ted@copyrightroyalties.com

Signed: /s/ Michael E Kientzle